IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6874 of 2005

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DOLATRAI MANIBAHI VASHI - Petitioner(s)

Versus

DY.COLLECTOR SHRI & 2 - Respondent(s)

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Appearance :
MR ASHISH M DAGLI for Petitioner(s) : 1,
DS AFF.NOT FILED (R) for Respondent(s) : 1 - 2.
MS ARCHANA RAVAL ASST GOVERNMENT PLEADER for Respondent(s) : 3,
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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 08/12/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Deputy Collector, Stamp Duty Valuation, Valsad dated 31.12.2001 passed under Section-32-A of the Bombay

Stamp Act, by which, the petitioner is directed to pay an amount of Rs.3,00,678/- plus Rs.250/- by way of penalty with interest with respect to the Document No.3059 dated 26.12.1996 presented before the Sub Registrar, Paradi.

2. Number of submissions have been made on merits. Shri A.M.Dagali, learned advocate for the petitioner has however emphasized on the submission that the impugned order is passed without giving any opportunity of hearing to the petitioner and / or no notice was served upon the petitioner. Affidavit-in-reply is also filed on behalf of the respondents in which it is stated that notices were issued upon the petitioner, however, as the petitioner has changed his residence and / or petitioner was not found, the said notices were unserved. However, the fact remains that before passing the impugned order, the petitioner was not heard. Under the circumstances, without entering into the merits of the case, the impugned order dated 31.12.2001 is required to be quashed and set aside only on the ground that the same is in breach of principles of natural justice.

3. Ms.Archana Raval, learned AGP has submitted that again there will be difficulty of serving notice upon the petitioner. To that, Shri Dagali, learned advocate for the petitioner has submitted that petitioner will appear on any convenient day before the Deputy Collector, Stamp Duty Valuation, Valsad between 3rd January to 5th January, 2006 for making submission and this may be treated as notice to the petitioner. Accordingly, the petitioner shall appear before the Deputy Collector, Stamp Duty Valuation, Valsad for hearing of the aforesaid proceedings under Section-32-A of the Bombay Stamp Act and after hearing and considering the submissions that may be made on behalf of the petitioner, the Deputy Collector, Valsad shall pass an appropriate order in accordance with law and on merits and shall communicate the outcome of the same to the petitioner at the address which may be furnished by the petitioner.

4. However, it is made clear that this Court hs not expressed any opinion on merits of the case and the

impugned order is set aside only on the ground that the same is in breach of principles of natural justice and it is ultimately for the Deputy Collector, Stamp Duty Valuation, Valsad to pass an appropriate order in accordance with law and after considering the submissions made on behalf of the petitioner.

5. For the reasons stated above, the impugned order dated 31.12.2001 is hereby quashed and set aside and the matter is remanded to the Deputy Collector, Stamp Duty Valuation, Valsad for passing the order afresh in accordance with law and on merits after giving an opportunity to the petitioner as stated above.

6. Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

Direct Service is permitted qua respondent Nos.1 & 2.

[M.R.Shah, J.]

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